

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Mailed: March 23, 2004

Opposition No. 91158625

Autodesk, Inc.

v.

Dassault Systemes S.A.

Karen Kuhlke, Interlocutory Attorney:

It has come to the attention of the Board, that opposer's notice of opposition to oppose application Serial No. 78069378, filed on November 25, 2003, is unsigned.

Opposer is advised that Trademark Rule 2.119(e) provides that every paper filed in an inter partes proceeding, and every request for an extension of time to file an opposition, must be signed by the party filing it, or by the party's attorney or other authorized representative. However, an unsigned paper will not be refused consideration if a signed copy is submitted to the Patent and Trademark Office within the time limit set in the notification of this defect by the Office.

Accordingly, opposer is allowed until **THIRTY DAYS** from the mailing date of this order to submit a signed copy of its notice of opposition, **failing which the opposition will be dismissed as a nullity.**

Further, the Board notes that on January 15, 2004 applicant filed a contested motion for a more definite statement under Fed. R. Civ. P. 12(e). Rather than defer consideration of this motion awaiting signature of the notice of opposition, the Board will address the alleged ambiguity of the pleading.

Applicant argues that opposer's statements that it "does not particularly object to the graphical representation of applicant's mark" and "specifically objects to the characterization of the mark as '3DS' and use by applicant as such, rather than to the visual mark itself" are contradictory and make it "impossible for applicant to frame a responsive pleading."¹

In response, opposer argues that the "mark in issue in this matter...has multiple aspects" and "[w]hile it could possibly be said that opposer gives up too much by indicating that the visual aspect of the mark does not provide grounds for objection, this has been the position taken."²

¹ Paragraph no. 4 in its entirety reads: Applicant's mark "3DS" (to the extent it is interpreted as such) appropriates a principal component of opposer's marks. Opposer does not particularly object to the graphical representation of applicant's mark. However that mark is described as having the alphanumeric identity to "3DS" to which opposer strenuously objects. Opposer specifically objects to the characterization of the mark as "3DS" and use by applicant as such, rather than to the visual mark itself.

² Opposer further states in its brief that its requested remedy is "the removal of the misleading and conflicting transliteration

A notice of opposition must include (1) a short and plain statement of the reason(s) why opposer believes it would be damaged by the registration of the opposed mark (i.e., opposer's standing to maintain the proceeding), and (2) a short and plain statement of one or more grounds for opposition. See 37 CFR § 2.104(a); and *Consolidated Natural Gas Co. v. CNG Fuel Systems, Ltd.*, 228 USPQ 752 (TTAB 1985).

The elements of a claim should be stated simply, concisely, and directly. See Fed. R. Civ. P. 8(e)(1). However, the pleading should include enough detail to give the defendant fair notice of the basis for each claim. See *McDonnell Douglas Corp. v. National Data Corp.*, 228 USPQ 45 (TTAB 1985). See also *Harsco Corp. v. Electrical Sciences Inc.*, 9 USPQ2d 1570 (TTAB 1988), and Beth A. Chapman, TIPS FROM THE TTAB: Amending Pleadings: The Right Stuff, 81 Trademark Rep. 302 (1991). When a pleading is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, a party may file a motion for a more definite statement under Fed. R. Civ. P. 12(e). TBMP Section 505.01 (2d ed. revised March, 2004).

from the mark in question." However, the remedy requested in the notice of opposition is that "application Serial No. 78069378 be rejected, that no registration be issued thereon to applicant and that this opposition be sustained in favor of opposer." With regard to amendments to the description of a mark the parties are directed to TMEP Section 808.01 (3d ed. May 2003).

Although paragraph no. 4 of opposer's complaint may contain several allegations, in such circumstances where a defendant may want in good faith to deny only a part or a qualification of an allegation, the defendant should admit so much of the allegation as is true and material and should deny the remainder. TBMP Section 300 (2d ed. revised March 2004).

After a careful review of the pleading, the Board does not find the notice of opposition to be vague or ambiguous as contemplated by Fed. R. Civ. P. 12(e). In view thereof, applicant's motion for a more definite statement is denied.

Proceedings herein are otherwise suspended pending possible response to this order. In the event proceedings are resumed, dates, including applicant's time to file an answer to the signed notice of opposition, will be reset.³

* * *

³ Applicant's motion (filed January 15, 2004) for an extension of time to file an answer is granted to the extent indicated above.